

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

TYRONE HILL,)	
)	
Plaintiff,)	Civil Action No. 2:12-132
)	
v.)	
)	District Judge Mark R. Hornak
UNITED STATES,)	
)	
Defendant.)	

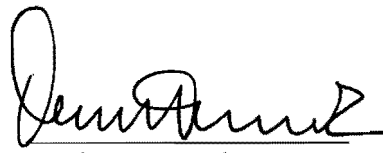
ORDER

On February 6, 2012, Plaintiff in the above-captioned case submitted a complaint in the United States Court for the Western District of Pennsylvania and moved to proceed *in forma pauperis*. On May 7, 2012, the Magistrate Judge granted Plaintiff's Motion to Proceed *in forma pauperis* (IFP) in the current action (ECF No. 9). On May 8, 2012, Plaintiff filed a Motion to Appoint Counsel (ECF No. 13). On May 14, 2012, the Court ordered Defendant to file a response; however, service had not yet been made as Plaintiff had not provided the required forms. On May 14, 2012, Plaintiff filed another Motion to Appoint Counsel (ECF No. 14). On that same date, the Magistrate Judge ordered Plaintiff to provide proper instructions for service. On May 17, 2012, the Magistrate Judge denied Plaintiff's Motions to Appoint Counsel (ECF No. 15) in accordance with applicable case law and our local rules.

On May 24, 2012, Plaintiff filed yet another Motion to Appoint Counsel (ECF No. 16). Because service still had not been effected, on May 25, 2012, the Magistrate Judge denied the Motion as moot. Subsequently, the Court discovered that Plaintiff has had at least three prior

actions dismissed on the grounds that they were frivolous or failed to state a claim upon which relief may be granted. Consequently, the Magistrate Judge was required to review the Plaintiff's action under the directive in 28 U.S.C. § 1915(g), that was passed as part of the Prison Litigation Reform Act (PLRA), Pub. L. No. 104-134, 110 Stat. 1321 (1996). Because Plaintiff has had at least "three strikes" under that proviso, the Magistrate Judge has recommended that her Order granting Plaintiff's Motion for Leave to Proceed *In Forma Pauperis* be vacated, that Plaintiff's Motion for Leave to Proceed *In Forma Pauperis* be denied in accordance with 28 U.S.C. § 1915(g) and that this action be dismissed for Plaintiff's failure to pay the filing fee, with the right of Plaintiff to reopen by paying the full \$350.00 filing fee within sixty (60) days.

On May 29, 2012, Plaintiff filed an appeal from the Court Orders denying his motions for counsel (ECF No. 18). My standard of review of the Magistrate Judge's determinations is whether her orders are "clearly erroneous or contrary to law." Garland v. Malinich, 181 Fed. App'x 276, 277 (3d Cir. 2006). In this action, it appears that Plaintiff falls within the provisions of section 1915(g) and, therefore, must pay the \$350.00 filing fee before any requests for counsel can be considered. Consequently, the Court finds that none of the Magistrate Judge's Orders are clearly erroneous or contrary to law. Therefore, Plaintiff's appeal is denied.

 May 31, 2012

Mark R. Hornak
United States District Judge

Tyrone Hill
71015-004
FMC DEVENS
Federal Medical Center
P.O. BOX 879 Unit N-1
Ayer, MA 01432